

Statement of the Honorable Roy Blunt  
Majority Whip  
United States House of Representatives

Testimony Before the  
House Homeland Security Committee

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Many Americans were outraged when they first learned of the Dubai Ports World (DPW) deal to take over the management of commercial operations at six ports along the Eastern seaboard and Gulf of Mexico. CFIUS, the Committee on Foreign Investment in the United States, an inter-agency panel designed to review and investigate mergers and acquisitions from foreign investors taking America's national security into account, approved the Dubai Ports World acquisition on behalf of the Bush Administration, yet no cabinet officer was willing to be held accountable for the approval. Equally concerning, the President learned of the deal through press reports rather than agency briefings. No one in Congress seemed to have any answers either. When Homeland Security Committee Chairman King was caught off guard by the lack of coordination with Congress, it became clear to me that the CFIUS process needed to be updated. As you might expect, Congress reacted to their constituents concerns and voted to scuttle the deal by forcing a vote on a free standing amendment to the Emergency Supplemental Appropriations Act.

The attacks of September 11th changed the world we live in. Any reform in CFIUS must take this into account. Congress has no more important duty than to ensure the security of our nation. However, protectionism is not the answer. Chairman Pryce, Congresswoman Maloney, Congressman Crowley and I have introduced a responsible bipartisan bill which addresses the problems exposed in the CFIUS process during the Dubai Ports World incident. Striking the right balance between protecting America from

those who wish to harm us, while preserving our open engagement with the global economy was our goal. Avoiding unintended consequences by not creating new burdens for normal business acquisitions or new diplomatic or business problems for the United States is equally important.

H.R. 5337 deals specifically with the main political issues the Dubai Ports World incident exposed.

First, it reaffirms Congressional intent relating to the "Byrd Rule", which mandates a 45-day investigation for companies controlled by foreign governments. Any state owned enterprise will trigger an automatic CFIUS investigation. DPW a United Arab Emirates owned enterprise falls into this category. However, due to the Byrd loophole, the acquisition failed to trigger a more intensive investigation by CFIUS. Blunt, Pryce, Maloney, Crowley would solve this problem.

Secondly, DPW exposed a lack of accountability. It was widely reported that President Bush, and Secs. Snow, Rumsfeld and Chertoff were all unaware of the CFIUS approval of DPW. H.R. 5337, our legislation establishes CFIUS in statute and adds the Secretary of Homeland Security as vice-chair. Additionally, the signature of the chair (Secretary of Treasury) and vice chair are required for all decisions. This signature requirement cannot be delegated below the Deputy Secretary level, ensuring accountability. Blunt, Pryce, Maloney, Crowley develops a regular-order process for notifying CFIUS; records and monitors withdrawals from the process; develops a process for any needed extension of investigation (roll-call votes of 2/3 of Committee); and after investigation sends the decision to the President with the dissenting vote of any single Committee member.

Our legislation establishes a formal analysis by the Director of National Intelligence of every transaction. If for any reason the DNI is unable to complete its threat assessment within the 30 day review process, a 45-day CFIUS investigation is triggered.

Additional requirements relating to CFIUS accountability include:

- A formal method for tracking and enforcing post-transaction compliance with mitigation agreements and for tracking any post-transaction changes in such agreements.
- Gives formal enforcement authority for compliance with such agreements to Committee member with greatest expertise in subject.
- Assures an objective review of a proposal, followed by certain notification of responsible presidentially-appointed officials.

Thirdly, DPW highlighted the lack of Congressional oversight in the CFIUS process. I strongly feel that the CFIUS process should not be politicized by a Congressional veto. However, certain committees and Members need to be aware of the impact of foreign investment as it relates to our national security. H.R. 5337, ensures that notices be sent to bipartisan Members of leadership and to every committee with jurisdiction over any aspect of a transaction after each investigation. Any Member receiving such notice may request a classified briefing on the transaction. Blunt, Pryce, Maloney, Crowley requires thorough and regular (semi-annual) reporting to Congress on activities of CFIUS, including trend analysis of foreign investments and of industrial espionage or attempts to control a type of asset or sector.

Lastly, the CFIUS process post DPW has created a lack of certainty and predictability for our potential global business partners. More than ever it is important that we provide clarity and regular-order certainty in consideration of applications. H.R. 5337 does exactly this by mandating statutory protection of proprietary business information and certainty on the potential for any extensions of CFIUS investigations.

In sum, H.R. 5337 would have prevented the political fallout associated with the Dubai Ports World fallout.

1. DPW a state owned enterprise would have automatically triggered an intensive 45 day investigation by the CFIUS panel. Unfortunately, no such investigation ever took place.
2. As Chair and Vice Chair, Secs. Snow and Chertoff would have been required to sign a certification that CFIUS completed and approved of the DPW deal. The DPW acquisition only rose to the assistant secretary level.
3. Had just one CFIUS member expressed concerns related to the DPW transaction, relevant congressional leaders and Committee Members would have received notification of the approved DPW deal 15 days prior to Presidential signature. This would have given Congress the ability to request classified briefings and learn of the intricacies of the transaction before jumping to conclusions. In the case of DPW, every Member learned more from press accounts than from the administration.

Chairman King, thank you for taking a leadership role on this issue. I appreciate your support of H.R. 5337. Your contributions have made it much stronger legislation. I would also like to thank Ranking Member Thompson. It would be easy to allow CFIUS Reform to become a politically charged issue. It is my hope to continue to work with the Committee on Homeland Security in a bipartisan fashion to pass a bill the United States House of Representatives can be proud of.